



5-19-0300
0300
PATENTS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Terry et al.	Attorney Docket:	0960-020
Serial No:	09/933,323	Examiner:	Not Assigned
Filed:	08/20/2001	Art Unit:	2611

TITLE:

CAPACITY SCALING AND FUNCTIONAL ELEMENT REDISTRIBUTION WITHIN
AN IN-BUILDING COAX CABLE INTERNET ACCESS SYSTEM

Filing of Declaration Subsequent to Filing the Application

Assistant Commissioner for Patents
Box Missing Parts
Post Office 2327
Arlington, Virginia 22202

This communication is in response to the "Decision of Petition" mailed November 5, 2001 for which a response is due no later than two months from filing. The Lead Petitions Examiner states that the above referenced application is being returned to the Office of Initial Examination for a "Notice to File Missing Parts of Non-provisional Application".

The situation addressed by the petition was that the application was filed without a signed declaration as the inventor died shortly before filing and no one had been officially named as legal representative of the deceased inventor. Thus, no legal representative was available to sign despite diligent search. The petition was denied and applicant has been instructed to submit the declaration in accordance for the rules set forth under 37 CFR § 1.42.

An executrix has been named for the deceased inventor and applicant now submits a declaration signed by the executrix in conformity with 37 CFR § 1.42.

Applicant's attorney submits herewith the following:

1. A copy of an executed Declaration signed by Mrs. Dorothy Terry as Executor of the estate of her late husband John Brian Terry, deceased inventor of the above-identified application;
2. Papers documenting the legal status of Mrs. Terry:
 - a. A copy of the executed Letters Testamentary from the Probate Court of the State of Georgia;
 - b. A copy of the certification by the Clerk of the Probate Court dated August 16, 2001;
3. Fee transmittal (in duplicate) with a check for \$65; and
4. Return receipt postcard.

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Dated: November 30, 2001

Respectfully submitted,



Kevin E. Flynn Reg. No. 37,325

Daniels & Daniels, P.A.
P.O. Drawer 12218
Research Triangle Park, NC 27709
Voice 919.544.5444
Fax 919.544.5920
email Kflynn@daniels.com

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FEE TRANSMITTAL for FY 2001

Patent fees are subject to annual revision.

TOTAL AMOUNT OF PAYMENT (\$65.00)

Complete if Known

Application Number 09/933,323

Filing Date August 20, 2001

First Named Inventor Terry et al.

Examiner Name N/A

Group/Art Unit 2611

Attorney Docket No. 0960-020

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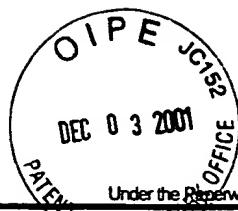
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METHOD OF PAYMENT (check one)				FEE CALCULATION (continued)					
1. <input type="checkbox"/> The Commissioner is hereby authorized to charge indicated fees and credit any overpayments to: Deposit Account Number <input type="text"/>				3. ADDITIONAL FEES Large Entity Small Entity Fee Description Fee Paid Fee Code (\$ Fee Code (\$ Fee Code (\$ Fee Description Fee Paid 105 130 205 65 Surcharge - late filing fee or oath 65.00 127 50 227 25 Surcharge - late provisional filing fee or cover sheet 139 130 139 130 Non-English specification 147 2,520 147 2,520 For filing a request for reexamination 112 920* 112 920* Requesting publication of SIR prior to Examiner action 113 1,840* 113 1,840* Requesting publication of SIR after Examiner action 115 110 215 55 Extension for reply within first month 116 390 216 195 Extension for reply within second month 117 890 217 445 Extension for reply within third month 118 1,390 218 695 Extension for reply within fourth month 128 1,890 228 945 Extension for reply within fifth month 119 310 219 155 Notice of Appeal 120 310 220 155 Filing a brief in support of an appeal 121 270 221 135 Request for oral hearing 138 1,510 138 1,510 Petition to institute a public use proceeding 140 110 240 55 Petition to revive - unavoidable 141 1,240 241 620 Petition to revive - unintentional 142 1,240 242 620 Utility issue fee (or reissue) 143 440 243 220 Design issue fee 144 600 244 300 Plant issue fee 122 130 122 130 Petitions to the Commissioner 123 50 123 50 Petitions related to provisional applications 126 240 126 240 Submission of Information Disclosure Stmt 581 40 581 40 Recording each patent assignment per property (times number of properties) 146 710 246 355 Filing a submission after final rejection (37 CFR § 1.129(a)) 149 710 249 355 For each additional invention to be examined (37 CFR § 1.129(b)) Other fee (specify) _____ Other fee (specify) _____ *Reduced by Basic Filing Fee Paid SUBTOTAL (3) (\$ 65.00)					
2. <input checked="" type="checkbox"/> Payment Enclosed: <input checked="" type="checkbox"/> Check <input type="checkbox"/> Money Order <input type="checkbox"/> Other									
FEE CALCULATION									
1. BASIC FILING FEE									
Large Entity	Small Entity	Fee Description				Fee Paid			
Fee Code	Fee (\$)	Fee Code	Fee (\$)						
101	710	201	355	Utility filing fee					
106	320	206	160	Design filing fee					
107	490	207	245	Plant filing fee					
108	710	208	355	Reissue filing fee					
114	150	214	75	Provisional filing fee					
SUBTOTAL (1) (\$ 0.00)									
2. EXTRA CLAIM FEES									
Total Claims		Extra Claims		Fee from Below		Fee Paid			
-20**=		0		X		= 0.00			
Independent Claims		-3**=		0		X		= 0.00	
Multiple Dependent									
**or number previously paid, if greater; For Reissues, see below									
Large Entity Small Entity Fee Description									
Fee Code	Fee (\$)	Fee Code	Fee (\$)						
103	18	203	9	Claims in excess of 20					
102	80	202	40	Independent claims in excess of 3					
104	270	204	135	Multiple dependent claim, if not paid					
109	80	209	40	**Reissue independent claims over original patent					
110	18	210	9	**Reissue claims in excess of 20 and over original patent					
SUBTOTAL (2) (\$ 0.00)				SUBTOTAL (3) (\$ 65.00)					

SUBMITTED BY		Complete if applicable		
Name (Print/Type)	Kevin E. Flynn	Registration No. (Attorney/Agent)	37,325	Telephone (919) 544 5444
Signature				Date November 30, 2001

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.



FEE TRANSMITTAL for FY 2001

Patent fees are subject to annual revision.

TOTAL AMOUNT OF PAYMENT (\$65.00)

METHOD OF PAYMENT (check one)

1. The Commissioner is hereby authorized to charge indicated fees and credit any overpayments to:Deposit Account Number Deposit Account Name
 Applicant Claims Small Entity Status
 Charge Any Additional Fee Required
 Under 37 CFR 1.16 and 1.17
2. Payment Enclosed:
 Check Money Order Other

FEE CALCULATION

1. BASIC FILING FEE

Large Entity	Small Entity	Fee Description	Fee Paid
Fee Code	Fee Code	Fee Description	
101	710	201 355 Utility filing fee	<input type="text"/>
106	320	206 160 Design filing fee	<input type="text"/>
107	490	207 245 Plant filing fee	<input type="text"/>
108	710	208 355 Reissue filing fee	<input type="text"/>
114	150	214 75 Provisional filing fee	<input type="text"/>

SUBTOTAL (1) (\$0.00)

2. EXTRA CLAIM FEES

Total Claims	Extra Claims	Fee from Below	Fee Paid
	-20**=	0	<input type="text"/> = 0.00
Independent Claims	-3**=	0	<input type="text"/> = 0.00

Multiple Dependent

Large Entity	Small Entity	Fee Description
Fee Code (\$)	Fee Code (\$)	
103	18	203 9 Claims in excess of 20
102	80	202 40 Independent claims in excess of 3
104	270	204 135 Multiple dependent claim, if not paid
109	80	209 40 **Reissue independent claims over original patent
110	18	210 9 **Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) (\$0.00)

Complete if Known	
Application Number	09/933,323
Filing Date	August 20, 2001
First Named Inventor	Terry et al.
Examiner Name	N/A
Group/Art Unit	2611
Attorney Docket No.	0960-020

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FEE CALCULATION (continued)				
3. ADDITIONAL FEES				
Large Entity	Small Entity	Fee Description	Fee Paid	
Fee Code (\$)	Fee Code (\$)	Fee Description	Fee Paid	65.00
105	130	205 65 Surcharge - late filing fee or oath		
127	50	227 25 Surcharge - late provisional filing fee or cover sheet		
139	130	139 130 Non-English specification		
147	2,520	147 2,520 For filing a request for reexamination		
112	920*	112 920* Requesting publication of SIR prior to Examiner action		
113	1,840*	113 1,840* Requesting publication of SIR after Examiner action		
115	110	215 55 Extension for reply within first month		
116	390	216 195 Extension for reply within second month		
117	890	217 445 Extension for reply within third month		
118	1,390	218 695 Extension for reply within fourth month		
128	1,890	228 945 Extension for reply within fifth month		
119	310	219 155 Notice of Appeal		
120	310	220 155 Filing a brief in support of an appeal		
121	270	221 135 Request for oral hearing		
138	1,510	138 1,510 Petition to institute a public use proceeding		
140	110	240 55 Petition to revive - unavoidable		
141	1,240	241 620 Petition to revive - unintentional		
142	1,240	242 620 Utility issue fee (or reissue)		
143	440	243 220 Design issue fee		
144	600	244 300 Plant issue fee		
122	130	122 130 Petitions to the Commissioner		
123	50	123 50 Petitions related to provisional applications		
126	240	126 240 Submission of information Disclosure Stmt		
581	40	581 40 Recording each patent assignment per property (times number of properties)		
146	710	246 355 Filing a submission after final rejection (37 CFR § 1.129(a))		
149	710	249 355 For each additional invention to be examined (37 CFR § 1.129(b))		
Other fee (specify)				
Other fee (specify)				
*Reduced by Basic Filing Fee Paid			SUBTOTAL (3)	(\$ 65.00)

Complete if applicable

Name (Print/Type)	Signature	Registration No. (Attorney/Agent)	Telephone
Kevin E. Flynn		37,325	(919) 544 5444

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PTO/SB/01A (10-01)

Approved for use through 10/31/2002. OMB 0651-0032
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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DECLARATION (37 CFR 1.63) FOR UTILITY OR DESIGN APPLICATION USING AN APPLICATION DATA SHEET (37 CFR 1.76)

Title of Invention Capacity Scaling and Functional Element Redistribution Within an In-building...

As the below named inventor(s), I/we declare that:

This declaration is directed to:

The attached application, or
 Application No. 09/933,323, filed on August 20, 2001
 as amended on _____ (if applicable);

I/we believe that I/we am/are the original and first inventor(s) of the subject matter which is claimed and for which a patent is sought;

I/we have reviewed and understand the contents of the above-identified application, including the claims, as amended by any amendment specifically referred to above;

I/we acknowledge the duty to disclose to the United States Patent and Trademark Office all information known to me/us to be material to patentability as defined in 37 CFR 1.56, including for continuation-in-part applications, material information which became available between the filing date of the prior application and the national or PCT International filing date of the continuation-in-part application.

All statements made herein of my/own knowledge are true, all statements made herein on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and may jeopardize the validity of the application or any patent issuing thereon.

FULL NAME OF INVENTOR(S)

Inventor one: Dorothy Terry as Executor for the Estate of John Brian Terry

Signature: Dorothy Terry Citizen of: United Kingdom

Inventor two: Jeffrey A. Hales

Signature: Jeffrey A. Hales Citizen of: United States

Inventor three:

Signature: Citizen of:

Inventor four:

Signature: Citizen of:

Additional inventors are being named on _____ additional form(s) attached hereto.

Burden Hour Statement: This collection of information is required by 35 U.S.C. 115 and 37 CFR 1.63. The information is used by the public to file (and the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This form is estimated to take 1 minute to complete. This time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

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STATE OF GEORGIA, FORSYTH COUNTY

PROBATE COURT

I, RACHEAL C. PRUITT, Judge/Clerk of the Probate Court of said County, same being a court of record and being the court formerly designated the Court of Ordinary, do hereby certify that I have compared the foregoing copy of Letters Testamentary-John Brian Terry, Estate.
Dorothy Terry-Executor.

with the original record thereof, now remaining in this office, and the same is a correct transcript therefrom, and of the whole of such original record.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of the Probate Court this the 16th day of August, 2001.

Racheal C. Pruitt
Judge/Clerk, Probate Court

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STATE OF GEORGIA
COUNTY OF FORSYTH

GEORGIA PROBATE COURT
STANDARD FORM

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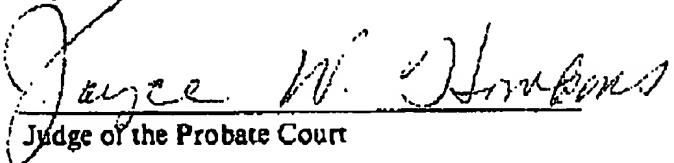
LETTERS TESTAMENTARY
(Relieved of Filing Returns)By Joyce W. Hawkins, Judge of the Probate Court of said County.

KNOW ALL WHOM IT MAY CONCERN:

That on the 16th day of August, 2001, at a regular term of the Probate Court, the last Will and Testament dated Dec. 20, 1993, of John Brian Terry deceased, at the time of his death a resident of said County, was legally proven in SOLEMN form and was admitted to record by order, and it was further ordered that Dorothy Terry, named as Executor(s) in said Will, be allowed to qualify, and that upon so doing, Letters Testamentary be issued to such Executor(s).

NOW, THEREFORE, the said Dorothy Terry, having taken the oath of office and complied with all the necessary prerequisites of the law, is/are legally authorized to discharge all the duties and exercise all the powers of Executor(s) under the Will of said deceased, according to the Will and the law.

Given under my hand and official seal, the 16th day of August, 2001.


Joyce W. Hawkins
Judge of the Probate Court

NOTE: The following must be signed if the judge does not sign the original of this document:

Issued by:

Clerk, Probate Court

(Seal)
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